

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Northwest Bypass Group, et al.,
Plaintiffs

v.

Docket No. 06-cv-00258-SM

U. S. Army Corps of Engineers, et al.,
Defendants

PLAINTIFFS' ASSENTED-TO MOTION FOR LEAVE TO FILE
REPLY OR REPLIES TO DEFENDANTS' OPPOSING MEMORANDA

NOW COME plaintiffs Northwest Bypass Group, Morton C. and Carolyn H. Tuttle and Leslie J. Ludtke, by and through their counsel, Gordon R. Blakeney, Jr., pursuant to LR 7.1(e)(2), and respectfully say as follows.

1. As stated in the plaintiffs' *Motion for Temporary Restraining Order and Preliminary Injunction with Request for Expedited Hearing* ("plaintiffs' Motion"), at page 3, "The parties ha[d] agreed to notify the Court of a date or dates on which a hearing could be held that would allow consideration of preliminary relief prior to the commencement of work likely to cause irreparable harm."

2. Pursuant to that agreement, first, undersigned counsel filed an *Addendum to Motion for Temporary Restraining Order (Etc.) Regarding Hearing Date and Relief Requested*, which stated, in pertinent part: "[T]he parties are in agreement that a temporary restraining order will neither have to be heard or issued to preserve the status quo, contingent upon the Court's availability

to hear and act upon a preliminary injunction, once the City provides its best estimate for an actual intended construction schedule." Id. at 2.

3. Subsequently, the parties notified the Court that their suggested hearing date for the plaintiffs' *Motion* was August 22, 2006, a date subsequently adopted by Order entered July 25, 2006.

4. Finally, the parties agreed, inter alia, that the defendants' deadlines for objecting to the plaintiffs' *Motion* would be enlarged to August 15, 2006, which was reflected in the defendant's joint *Assented-to Motion for Extensions of Time and Page Limits*, and approved by Endorsed Order entered July 31, 2006.

5. In discussing the defendants' requested enlargement, the parties agreed that the August 15, 2006, deadline would give the plaintiffs sufficient time to file a reply or replies to the defendants' objections before the hearing on August 22, 2006.

6. A reply or replies is or are warranted because the defendants' objections assert numerous arguments for which the plaintiffs contend they will offer substantive responses.

7. Accordingly, the plaintiffs request that they be granted leave to file a reply or replies no later than 12:00 PM (Noon), Monday, August 21, 2006, and further request that a single reply shall be limited to 20 pages while two replies shall be limited to 10 pages each.

8. Counsel for the defendants concur in this request for leave to file a reply or replies.

9. A memorandum of law will not be necessary in support of

this motion, as all supporting grounds are set forth or incorporated by reference herein.

WHEREFORE, the plaintiffs respectfully pray:

A. That this Honorable Court shall grant the plaintiffs leave to file a reply or replies to the defendants' objections no later than 12:00 PM (Noon), Monday, August 21, 2006;

B. That this Honorable Court shall grant the plaintiffs leave to file a single reply limited to 20 pages or two replies limited to 10 pages each; and

C. For such other and further relief as may be just and equitable.

Respectfully submitted,
NORTHWEST BYPASS GROUP
MORTON C. AND CAROLYN H. TUTTLE
AND LESLIE J. LUDTKE
By Their Attorney,
Gordon R. Blakeney, Jr.

Dated: August 17, 2006 By: /s/ Gordon R. Blakeney, Jr.
Gordon R. Blakeney, Jr., Esq.
NH 6802
Building 4, Suite C
105 Loudon Road
Concord, N.H. 03301
(603) 225-2310
rbplease@aol.com

CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2006, I electronically filed the foregoing PLAINTIFFS' ASSENTED-TO MOTION FOR LEAVE TO FILE REPLY OR REPLIES TO DEFENDANTS' OPPOSING MEMORANDA with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

John P. Almeida
Daniel R. Dertke
Bruce W. Felmlly

E. Tupper Kinder
Samantha Klein
Gregory H. Smith

Dated: August 17, 2006 By: /s/ Gordon R. Blakeney, Jr.
Gordon R. Blakeney, Jr., Esq.